



WEB COPY



W.P.No.9279 of 2020

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 23.11.2023

CORAM

THE HONOURABLE Ms.JUSTICE R.N.MANJULA

W.P. No.9279 of 2020

N.Ratnakumar Raju
S/o.A.Natarajan
New No.35, Old No.69
11th Street, Z Block, Anna Nagar
Chennai 600 040

... Petitioner

/Vs/

1.Tamil Nadu Grama Bank
Rep. by its Chairman
Head Office, 6, Yercaud Road
Salem 636 007

2.Board of Directors
Tamil Nadu Grama Bank
Head Office, 6, Yercaud Road
Salem 636 007

... Respondents

Writ Petition is filed under Article 226 of the Constitution of India for issuance of Writ of Certiorarified Mandamus to call for the records from the files of the 1st and 2nd Respondents pertaining to their impugned order bearing TNGB/HO/VIG/Appeal/01/2019-20 dated 27.12.2019 imposing the punishment of “Removal from Service, which shall not be disqualification for future employment” and the appellate authority's order bearing Board Note No.01/2019 dated 06.12.2019 respectively and to quash the same and consequently to direct the Respondents to reinstate the Petitioner in service



W.P.No.9279 of 2020

with continuity of service, with backwages and with all other attendant and consequential benefits.

For Petitioner : Mr.K.M.Ramesh
Senior Counsel
for Mr.V.Subramani

For Respondents : Mr.N.Umasankar
for M/s.M.Jayakumar & Associates

ORDER

This Writ Petition has been filed for issuance of Writ of Certiorarified Mandamus to call for the records from the files of the 1st and 2nd Respondents pertaining to their impugned order bearing TNGB/HO/VIG/Appeal/01/2019-20 dated 27.12.2019 imposing the punishment of “Removal from Service, which shall not be disqualification for future employment” and the appellate authority's order bearing Board Note No.01/2019 dated 06.12.2019 respectively and to quash the same and consequently to direct the Respondents to reinstate the Petitioner in service with continuity of service, backwages and all other attendant and consequential benefits.

2.The Petitioner who was working as Branch Manager in the first Respondent Bank have been found guilty for 17 charges, out of 19 charges framed against him. After having found guilty by way of punishment, he was



W.P.No.9279 of 2020

removed from service. The Petitioner aggrieved by the order of appointing authority filed Appeal before the Appellate authority and the Appellate authority also confirmed the punishment of removal.

3.Heard Mr.K.M.Ramesh, learned Senior Counsel for Mr.V.Subramani, learned counsel for the Petitioner and Mr.N.Umasankar, learned counsel for M/s.M.Jayakumar & Associates, learned counsel for the Respondents.

4.Mr.K.M.Ramesh, learned Senior Counsel for Mr.V.Subramani, learned counsel for the Petitioner submitted that the enquiry proceedings has been conducted in a mechanical manner. Even in the Enquiry Report, in charge Nos.1(A) and 1(e) there is a gross difference in the details mentioning about the charges and the findings rendered by the Enquiry Officer. In the charge memo, there is no such charge as 1(A). However, in the enquiry report at Page No.165, there is some discussion with regard to Charge 1(A). With regard to charge No.10, at Page No.165 some 19 accounts have been mentioned but at Page No.189, regarding charge No.10 in the report of the Enquiry Officer with regard to discharge 22 accounts have been mentioned. Despite the Enquiry Officer has stated that 17 charges proved, except 8 & 10, the appointing authority has not accepted the report, but the Disciplinary authority has



W.P.No.9279 of 2020

considered that all the 19 charges were proved. But before taking such a stand, no notice has been given to the delinquent for giving him an opportunity to make his submission on the dissenting opinion of the appointing Authority.

5.Mr.K.M.Ramesh, learned Senior Counsel for the Petitioner relied upon the judgment of the Supreme Court in *Punjab National Bank and others Vs. Kunji Behari Misra* reported in (1998) 7 Supreme Court cases 84 and *Yoginath D.Bagde Vs. State of Maharashtra* and another reported in (1999) 7 Supreme Court Cases 739 and the Division Bench judgment of the this Court in *M.Mohandas Vs. State Bank of India* in W.A.No.1699 of 2010, in support of his contention that when the disciplinary authority disagrees with the findings of the Enquiry Officer an opportunity has to be given to the delinquent and the absence of such opportunity would amount to violation of principles of natural justice.

6.The Petitioner filed a detailed Appeal taking several grounds. However, the Appellate authority has passed a cryptic order without any discussion on the ground of Appeal made by the Petitioner and arrived at a conclusion confirming the punishment given by the appointing authority.



W.P.No.9279 of 2020

7.Mr.K.M.Ramesh, learned Senior Counsel for the Petitioner relied upon the judgment of the Supreme Court in *Ram Chander Vs. Union of India and others* reported in (1986) 3 Supreme Court Cases 103, in support of his submission that if the the appellate authority does not apply his mind and passed an order without dealing with the contention raised in the Appeal, that is illegal.

8.Mr.N.Umasankar, learned counsel for the Respondents submitted that the disciplinary authority before coming to any conclusion on Enquiry Officer's report with regard to Charge No.8 & 10, had given an opportunity to the Petitioner and only after hearing him, the disciplinary authority has proceeded to record that the charges 8 & 10 also proved. The Petitioner earlier filed a Writ Petition in W.P.No.9048 of 2010 to give him an audience with regard to the dissenting view taken by the disciplinary authority. Only in compliance of the order of the Court, the disciplinary authority has chosen to accept the enquiry officer's report with regard to charge No.8 alone and dissented with the findings in respect of charge No.10. The Appellate authority which consists of Board of Directors had gone into the appeal grounds in details and a valid order has been passed and hence, there is no need to revisit the orders of the disciplinary authority or the orders of the appointing authority.



W.P.No.9279 of 2020

WEB COPY

9.However, Mr.K.M.Ramesh, learned Senior Counsel for the Petitioner further submitted that one of the members in the Board of Directors is the one who happened to be the disciplinary authority, who has passed the final orders. Only on that ground some direction has been obtained from this Court in the earlier W.P.No.9048 of 2010 and hence the cryptic order passed by the appellate authority is illegal.

10.Mr.N.Umasankar, learned counsel for the Respondents submitted that the appellate authority had fully accepted the discharge report in respect of charge No. 8 & 10 and hence the order passed by the appellate authority cannot be said that it has been passed without application of mind.

11.However, the following discrepancies has been brought into notice in the enquiry officer's report:

(i).Despite the Petitioner has raised his grounds before the appellate authority, the order of appellate authority does not have any contention as to how the appeal grounds were dealt point by point.

(ii).How the Board had completely agrees with the orders passed by the disciplinary authority, on the basis of the enquiry report.



W.P.No.9279 of 2020

WEB COPY

12. On perusal of the Appeal order, it is seen that it is a very short order, which reproduces the charges and its appreciation is only on the following aspect:

“Inquiry Authority findings, the reply in defence of Mr.Rathnakumar Raju to the Inquiry Authority findings, the final order passed by the Disciplinary Authority on 27.10.2009 and other relevant records and documents were called for any they were gone through by the board of Directors. The Board of Directors have gone through all the papers and materials with the disciplinary proceedings and heard Mr.Ratnakumar Raju giving full opportunity to express his views. The Board finds that no fresh evidences or material is made available to disprove any charges i.e., charge No.1 to 7, 9 and 11 to 19. The Board therefore concurs with the order of the D.A. Awarding the punishment of “Removal from service, which shall not be disqualification for future employment” and the appeal of Mr.Ratnakumar Raju is disposed of accordingly”

13. When the Petitioner has presented exhaustive grounds in the Appeal, the Appellate authority ought to have dealt the same in a fair and proper manner and explained why the Board was not convinced on those grounds. Since there



W.P.No.9279 of 2020

are some apparent omissions seem to be present, in the appreciation of the

Board, I feel it is appropriate to remand the matter to the appellate authority.

Hence the order of the Respondents bearing TNGB/HO/VIG/Appeal/01/2019-20 dated 27.12.2019 is hereby set aside and the matter is remanded to the Appellate authority for reconsidering the appeal grounds, by fully dealing those grounds raised by the Petitioner and pass an order afresh, within a period of eight weeks from the date of receipt of a copy of this order.

14. With the above direction, this Writ Petition is disposed of. No costs.

23.11.2023

Index : Yes/No
Neutral citation : Yes/No
Speaking Order/Non-Speaking Order

sai



W.P.No.9279 of 2020

To

1.Tamil Nadu Grama Bank
Rep. by its Chairman
Head Office, 6, Yercaud Road
Salem 636 007

2.Board of Directors
Tamil Nadu Grama Bank
Head Office, 6, Yercaud Road
Salem 636 007



WEB COPY



W.P.No.9279 of 2020

R.N.MANJULA, J.

sai

W.P. No.9279 of 2020

23.11.2023